

TO: The Honorable Board of Supervisors

FROM: F. Craig Meadows, County Administrator
L. Carol Edmonds, Assistant County Administrator

DATE: December 12, 2011

SUBJECT: AGENDA REPORT

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. DELEGATION

- A. VIRGINIA DEPARTMENT OF TRANSPORTATION**
David Clarke, VDOT Maintenance Manager, will update the Board of Supervisors on road issues/concerns in Montgomery County. See TAB A for a copy of VDOT's report.

V. PUBLIC ADDRESS

VI. ADDENDUM

VII. CONSENT AGENDA

VIII. OLD BUSINESS

- A. SUBJECT: ORDINANCE – AFD #2 RENEWAL**

**ORD-FY-12
AN ORDINANCE RENEWING
AGRICULTURAL AND FORESTAL DISTRICT (AFD-2) CATAWBA
IN THE MOUNT TABOR MAGISTERIAL DISTRICT
CONSISTING OF APPROXIMATELY 5,843 ACRES
WITHIN MONTGOMERY COUNTY, VIRGINIA**

WHEREAS, Carl Absher; Jason Boyle; James Brown, Jr.; John B. Sutphin Living Trust; William Caldwell, Jr.; Catawba Swine Center, Inc.; Leonard Cessac, Jr.; Carolyn Clayton; Charles Eakin; Warren Eakin; Elizabeth Flanagan; Kathleen Grubb; David Hancock; Samuel Hancock; Donald Heindel; Gordon Johnson; Katherine Hanbury Rev. Trust; David Kohl; Jeffrey Lignon; David McPherson; Evelyn McPherson; James McPherson; The Nature Conservancy; The Orr Living Trust; Frances Parsons; James Sarver; Terry Sink; Randolph Tribble, Jr.; Randolph Vaden; Samuel Wall; Travis Wall; and Edward Yost filed applications for the renewal of AFD-2 on May 4, 2011, which Agricultural and Forestal District was created by an ordinance adopted on the 5th day of May, 1980; renewed by an ordinance adopted on the 12th day of October, 1987, and renewed by an ordinances adopted on the 10th day of October 1995, and the 15th day of May 2003.

WHEREAS, The existing AFD-2 members were notified by U.S. Mail concerning the renewal of the current term and asked to file an application to continue the district; and

WHEREAS, The applications were referred to the Agricultural and Forestal District Advisory Committee and said Committee has reviewed the application and reported its findings and recommendations on July 27, 2011; and

WHEREAS, The Planning Commission did publish notice of the pendency of the applications on September 28, 2011, October 5, 2011, October 25, 2011, and November 2, 2011 in the News Messenger, newspaper of general circulation within Montgomery County, Virginia; and

WHEREAS, The Planning Commission held a public meeting on October 12, 2011; and November 9, 2011.

WHEREAS, The Planning Commission forwarded the applications with its findings and recommendation for approval to the Board of Supervisors on November 9, 2011; and

WHEREAS, The Board of Supervisors after proper notice, held its public hearing on October 24, 2011 and November 28, 2011.

NOW, THEREFORE, BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia, as follows:

1. That the conservation, protection and encouragement of the development and improvement of its agricultural and forestal land for the production of food and other agricultural and forestal products is vital to the public interest, and that the conservation and protection of these lands as a valued natural and ecological resource as well as economic and environment resource of major importance is also in the public interest.

2. That this Agricultural and Forestal District, AFD-2, has been reviewed and is hereby continued and renewed for a term of eight years terminating on December 31, 2019, in accordance with the provisions of Title 15.2, Chapter 36, Sections 15.2-4300 through 15.2-4314 Code of Virginia, 1950, as amended.
3. That said District as renewed shall consist of approximately 5,843 acres in the Catawba Agricultural and Forestal District of Montgomery County, and shall include the following parcels:

PARCEL_ID	TAX_MAP_ID	OWNER1	OWNER2	ACRES
000026	020- A 27	ABSHER CARL P	ABSHER REBECCA B	43.01
012656	030-A-2	BOYLE JASON		5.00
002600	31-A-19	BROWN JAMES HOWE JR		57.00
02599	031- A 46,41,44,*	BROWN JAMES HOWE JR		632.96
018960	043- 1 1A,5	JOHN BROWN SUTPHIN LIV TRUST	C/O JOHN B SUTPHIN TRUSTEE	82.79
018961	030- A 23	JOHN BROWN SUTPHIN LIV TRUST	C/O JOHN B SUTPHIN TRUSTEE	96.25
018942	029-6-3(30)(3)1	JOHN BROWN SUTPHIN LIV TRUST	C/O JOHN B SUTPHIN TRUSTEE	102.98
016322	030- 1 B	CALDWELL WILLIAM C JR	CALDWELL DONNA BOONE	39.27
028958	019- A 25	CATAWBA SWINE CENTER INC		13.25
016131	020- A 1A	CESSAC H LEONARD JR	CESSAC HELEN L	18.97
024157	020- A 1C	CLAYTON CAROLYN O		73.94
005691	020- A 19D	EAKIN CHARLES L		20.79
080297	20-A-18	EAKIN CHARLES L		143.36
005693	012- A 7,6,8,9,*	EAKIN WARREN B	EAKIN LILA G	107.97
005394	020- A 22,21,23,*	EAKIN WARREN B	EAKIN LILA G	86.80
036254	020- A 15,20A	EAKIN WARREN B	EAKIN LILA G	82.00
021550	020- 1 1	FLANAGAN ELIZABETH A	MITCHELL HARVEY MICHAEL	85.50

007623	019- A 17,31(A)5*	GRUBB KATHLEEN W		99.90
007624	031- A 53	GRUBB KATHLEEN W		87.24
007625	031- A 53A	GRUBB KATHLEEN W		60.27
008010	030- 2 2,3	HANCOCK DAVID MICHAEL	HANCOCK JANET RUTH	159.15
008009	030- 2 5	HANCOCK DAVID MICHAEL	HANCOCK JANET RUTH	30.22
008008	030- 2 4	HANCOCK SAMUEL LEE	HANCOCK JOHN MARK	37.97
008007	030- A 29	HANCOCK SAMUEL LEE	HANCOCK JOHN MARK	17.04
008006	043- A 25	HANCOCK SAMUEL LEE	HANCOCK JOHN MARK	38.15
021199	020-A-1	HEINDEL, DONALD J. CONNIE M.		93.06
009762	020- A 6	JOHNSON GORDON G	JOHNSON NANCY M	93.50
007998	011- A 23	KATHERINE M HANBURY REV TR	KATHERINE M HANBURY TRUSTEE	135.00
030557	020- 1 3	KOHL DAVID M	KOHL KENDRA Z	74.80
016769	019- 3 15	LIGON JEFFREY E	LIGON CARRIE S	55.71
031716	019- A 19A	MCPHERSON DAVID R	MCPHERSON TINA D	29.54
012487	019- 1 1,5;19 A	MCPHERSON EVELYN D	ETAL	756.68
028959	019- A 27	MCPHERSON JAMES T	MCPHERSON JOYCE H.	10.02
032830	019- 1 1A,2,3,4	MCPHERSON JAMES T		53.57
012488	019- A 22	MCPHERSON JAMES THORNTON	MCPHERSON DAVID ROSS	142.00
012655	030- A 1	NATURE CONSERVANCY THE		221.60
013872	031- A 8,9,10-13	ORR LIVING TRUST	ORR LESLIE F TRUSTEE	703.08
012881	030- A 36,37,28	PARSONS FRANCES M		269.93
012874	030- 2 1	PARSONS FRANCES M		4.64
012878	030- 2 7	PARSONS FRANCES M		73.63
012873	030- 2 8	PARSONS FRANCES M		107.93
140558	019- A 26B	SARVER JAMES E	SARVER JUDY C	69.88
100582	030- 2 8A	SINK TERRY L	PARSONS LINDA E	3.62

030850	030- A 27	TRIBBLE RANDOLPH LOUIS JR		38.42
030850	030-A-27	TRIBBLE RANDOLPH LOUIS JR		35.71
030850	30-A-27A	TRIBBLE RANDOLPH LOUIS JR		4.85
034015	012- A 25,26,27	VADEN RANDOLPH K	VADEN CARRIE A	170.00
007360	012- A 19,18	VADEN RANDOLPH K	VADEN CARRIE A	11.00
020288	031- A 5	WALL SAMUEL MARVIN	WALL DENNIS I	81.51
001272	19-A-15	TRAVIS WALL & CRYSTAL WICKLINE		52.45
001273	19-A-16	TRAVIS WALL & CRYSTAL WICKLINE		35.00
100466	20-A-25A	YOST EDWARD D		5.00
021635	020-A 25,26	YOST EDWARD D		289.00
TOTAL ACREAGE OF AFD 2				5843

4. That these parcels qualify for land use value assessment provided the parcels meet the criteria of Section 58.1-3230 and 58.1-3233 of the Code.
5. That the owners of land within said District shall not terminate the District except in accordance with Section 15.2-4314 of the Code.
6. That lawful termination of any owner's association of the District shall not serve to terminate the existence of the District but the District shall continue in effect until the review required by Section 15.2-4311 of the Code.
7. That all County ordinances and regulations shall be applicable within said District; provided, such ordinance and regulations are consistent with the Agricultural and Forestal Districts Act. Further the Planning Commission is hereby advised that it is the intent of the Board of Supervisors that land use planning decisions or ordinances enacted to implement same shall take into account the special status of both land adjacent to said District and land lying within said District.
8. That an exception for secondary roads either within or along the boundary of said District is hereby created and consequently, there is hereby excepted from said District a strip of land extending twenty-five (25) feet on both sides of the center line of all existing secondary roads within or along the boundary of said District from this ordinance.

9. That the landowners of said District who do not already have either a conservation plan for agricultural and or a forestry management plan for forest lands shall apply to the appropriate agency for the preparation of such a plan within one year of the establishment of the district.

This ordinance shall take effect upon its adoption.

ISSUE/PURPOSE: Renewal of AFD-2

IX. NEW BUSINESS

**A. SUBJECT: LEAGUE OF WOMEN VOTERS
TRANSFER FROM GENERAL
CONTINGENCES FOR 2012 FACTS FOR
VOTERS BROCHURE (Balance in General
Contingencies before approval of this Resolution
is \$292,594)**

**A-FY-12
LEAGUE OF WOMEN VOTERS
TRANSFER FROM GENERAL CONTINGENCIES
2012 FACTS FOR VOTERS BROCHURE**

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

FROM:

950 General Contingencies (\$200)

TO:

910 League of Women Voters \$200

Said resolution transfers appropriated funds from General Contingencies to the League of Women Voters as a contribution to help cover the cost for the 2012 Facts for Voters publication.

ISSUE/PURPOSE: Transfer from General Contingences.

JUSTIFICATION:

This resolution transfers \$200 from General Contingencies to the League of Women Voters to help support the Montgomery County League of Women Voters 2012 FACTS FOR VOTERS publication. A contribution of \$200 guarantees the County will receive a minimum of 500 brochures.

B. SUBJECT:

**ECONOMIC DEVELOPMENT AUTHORITY
SERIES 2007 BOND REFINANCING
MANUFACTURING TECHNOLOGY
BUILDING**

**R-FY-12-
RESOLUTION OF THE BOARD OF SUPERVISORS
ECONOMIC DEVELOPMENT AUTHORITY
SERIES 2007 BOND REFINANCING**

WHEREAS, The Board of Supervisors of the County of Montgomery, Virginia **(the “Board of Supervisors”)** has determined that the County of Montgomery, Virginia **(the “County”)** has an immediate need to (i) refinance the Economic Development Authority of Montgomery County, Virginia **(the “Authority”)** \$10,567,876 Taxable Revenue Bond, Series 2007 **(the “Prior Bond”)**, which directly or indirectly refinanced prior borrowings of the Authority to finance the construction, renovation and equipping of the Technology Manufacturing Building located on certain land in the County **(together with such land and any other improvements located on such land, the “Project”)**, through the issuance of the Authority’s Taxable Revenue Bond, Series 2011, in a principal amount not exceeding \$9,400,000 **(the “Bond”)**, and (ii) pay the costs of issuance of the Bond, to accomplish certain purposes of the Virginia Industrial Development and Revenue Bond Act **(the “Act”)**, and the Authority has agreed to do so; and

WHEREAS, There has been presented to the Board of Supervisors a plan for the refinancing of the Prior Bond involving the issuance of the Bond by the Authority, which would not create debt of the County for purposes of the Virginia Constitution; and

WHEREAS, The Authority has received a proposal from StellarOne Bank **(the “Bank”)** for purchase of the Bond, payment of the Bond to be secured by a lien on and security interest in the Project granted pursuant to a deed of trust, and in connection therewith, the Bank has requested a moral obligation support agreement be entered into between the Authority and the County; and

WHEREAS, The Bank has agreed that the Bond maybe repaid without penalty at any time; and

WHEREAS, There have been presented to this meeting drafts of the following documents **(the “Documents”)**, copies of which shall be filed with the records of the Board of Supervisors:

1. a Bond Purchase and Loan Agreement between the Authority and the Bank providing for the purchase of the Bond and the loan of the monies from the sale of the Bond to repay the Prior Bond **(the “Bond Purchase and Loan Agreement”)**;
2. a Support Agreement between the Authority and the County to undertake a non-binding obligation to appropriate from time to time monies to the Authority in connection with payments due on the Bonds;
3. an Assignment of Rents and Leases between the Authority and the Bank, assigning to the Bank leases and rental payments received from the Project **(the “Assignment”)**; and
4. a Deed of Trust between the Authority and the trustees thereunder for the benefit of the Bank, securing the repayment of the Bond with a first deed of trust on the Project **(the “Deed of Trust”)**.

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA:

1. The plan for refinancing the Prior Bond for the County as described in the preambles above is hereby approved. The Authority will be requested to issue the Bond in the maximum amount of \$9,400,000 and to use the proceeds therefrom to refinance the Prior Bond and pay costs of issuance. The Authority will sell the Bond to the Bank and agree to repay the same pursuant to the Bond Purchase and Loan Agreement. The Authority’s repayment obligations will be sufficient to pay interest and principal due on the Bond, all pursuant to the Bond Purchase and Loan Agreement. The obligation of the Authority to pay principal and interest on Bond will be limited to revenues received from the Project and appropriations of the County under the Support Agreement, if necessary. The obligation of the County to make any payments under the Support Agreement will be subject to the Board of Supervisors making appropriations for such purpose. The Bond will be secured by the Assignment, the Bond Purchase and Loan Agreement, the Deed of Trust and the Support Agreement. The issuance of the Bond maturing in three years from the issuance date at a per annum interest rate of 3.75% is hereby approved.
2. The Board hereby approves Woods Rogers PLC serving as Bond Counsel with respect to the Bond and as counsel for the Bank.
3. The Chairman or Vice-Chairman of the Board of Supervisors, either of whom may act, is hereby authorized and directed to execute and deliver the Support Agreement

4. The Chairman or Vice-Chairman of the Board of Supervisors, either of whom may act, is hereby authorized and directed to acknowledge and consent, as necessary, to the provisions of the Support Agreement, the Assignment, the Deed of Trust, the Bond Purchase and Loan Agreement and any other instruments executed by the Authority in connection with the issuance of the Bond, including designating and confirming the final provisions and other terms of the Bond. The Board of Supervisors acknowledge that the representations with respect to the County set forth in Section III of the Bond Purchase and Loan Agreement are true and accurate and that the warranties, covenants and agreements of the Authority in said Section III can appropriately be given by the Authority.

5. The Documents shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, omissions, insertions, and changes as may be approved by the officer executing them, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes. The series designation of the Bond may be changed if the Bond is not issued in 2011.

6. The Board of Supervisors, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intent to make annual appropriations in future fiscal years in amounts sufficient to make all payments under the Bond pursuant to the Support Agreement and hereby recommends that future Boards of Supervisors do likewise during the term of the Bond.

7. All other acts of the Chairman or Vice-Chairman of the Board and other officers of the County that are in conformity with the purposes and intent of this resolution and in furtherance of the plan of financing, the issuance and sale of Bond and the refinancing of the Prior Bond are hereby approved and ratified.

8. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.

9. The County hereby agrees to the extent permitted by law to indemnify, defend and save harmless the Authority, its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, fines, losses, costs and expenses in any way connected with the County, the issuance of the Bond and the refinancing of the Prior Bond.

10. Nothing in this Resolution or the Support Agreement, the Bond or the Documents shall constitute a debt or a pledge of the faith and credit or the taxing power of the County with respect to any sums which are or may become payable under the Support Agreement. All obligations of the County and the Board of Supervisors under the Support Agreement are subject to and dependent upon appropriations of funds by the Board of Supervisors, and the Board of Supervisors shall have no legally binding obligation under this resolution or in the Support

Agreement to make any such appropriation or the payments provided for in the Support Agreement, the Support Agreement being a statement only of the present intent of the Board of Supervisors.

11. This resolution shall take effect immediately.

ISSUE/PURPOSE: Refinance of the EDA 2007 Series Bond.

JUSTIFICATION: Economic Development Authority desires to refinance their loan on the Manufacturing Technology Building in order to receive a lower interest rate. See TAB E for a copy of the Support Agreement.

**C. SUBJECT: WESTERN VIRGINIA REGIONAL JAIL
AUTHORITY APPOINTMENTS**

**R-FY-12-
WESTERN VIRGINIA REGIONAL
JAIL AUTHORITY**

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints the following individuals to the Western Virginia Regional Jail Authority effective January 1, 2012 and expiring December 31, 2012:

Sheriff Tommy Whitt	Chief Deputy Robert L. Hall (alternate)
_____, Board of Supervisors	_____ (alternate)
F. Craig Meadows, Staff Member	L. Carol Edmonds (alternate)

BE IT FURTHER RESOLVED, That employees appointed to boards/commissions/authorities as a representative for Montgomery County, such appointment is contingent upon their continued employment with the County and that any such termination or resignation from employment would also constitute a voluntary resignation from such board/commission/authority.

BE IT FURTHER RESOLVED, The expiration of a Board of Supervisors term in office shall constitute a voluntary resignation from any board/commission/authority appointment as a representative of Montgomery County.

BE IT FURTHER RESOLVED, That all annual appointments to the Western Virginia Regional Jail Authority shall be made by the Board of Supervisors prior to January 1 of the effective year.

ISSUE/PURPOSE: Make annual appointments/reappointments to the Western Virginia Regional Jail Authority.

JUSTIFICATION: Appointments/reappointments to the Western Virginia Regional Jail Authority will be effective January 1, 2012. They are listed on the Board's agenda for this meeting so the appointees can take the Oath of Office at the WVRJA's first meeting in January.

X. COUNTY ATTORNEY'S REPORT

XI. COUNTY ADMINISTRATOR'S REPORT

XII. BOARD MEMBERS' REPORTS

1. Supervisor Biggs
2. Supervisor Perkins
3. Supervisor Marrs
4. Supervisor Muffo
5. Supervisor Creed
6. Supervisor Brown
7. Supervisor Politis

XIII. ADJOURNMENT

FUTURE MEETINGS

Regular Meeting
Monday, January 9, 2012
6:00 p.m. Closed Meeting
7:15 p.m. Regular Meeting